

Senate File 394 - Introduced

SENATE FILE _____
BY DANIELSON, DOTZLER,
and HECKROTH

(COMPANION TO LSB 2309HH
BY KRESSIG)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to state tax benefits for use of biomass fuel by
2 electric utilities and including applicability and repeal date
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2309SS 82
6 rn/gg/14

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1 1 Section 1. NEW SECTION. 422.11T BIOMASS FUEL TAX CREDIT.
1 2 The taxes imposed under this division, less the credits
1 3 allowed under sections 422.12 and 422.12B, shall be reduced by
1 4 a biomass fuel tax credit allowed under chapter 476E.
1 5 This section is repealed December 31, 2012.
1 6 Sec. 2. Section 422.33, Code 2007, is amended by adding
1 7 the following new subsection:
1 8 NEW SUBSECTION. 24. The taxes imposed under this division
1 9 shall be reduced by a biomass fuel tax credit allowed under
1 10 chapter 476E.
1 11 This subsection is repealed December 31, 2012.
1 12 Sec. 3. Section 423.4, Code 2007, is amended by adding the
1 13 following new subsection:
1 14 NEW SUBSECTION. 8. A person in possession of a biomass
1 15 fuel tax credit certificate issued pursuant to chapter 476E
1 16 may apply to the director for refund of the amount of sales or
1 17 use tax imposed and paid upon purchases made by the applicant.
1 18 a. The refunds may be obtained only in the following
1 19 manner and under the following conditions:
1 20 (1) On forms furnished by the department and filed by
1 21 January 31 after the end of the calendar year in which the tax
1 22 credit certificate is to be applied, the applicant shall
1 23 report to the department the total amount of sales and use tax
1 24 paid during the reporting period on purchases made by the
1 25 applicant.
1 26 (2) The applicant shall separately list the amounts of
1 27 sales and use tax paid during the reporting period.
1 28 (3) If required by the department, the applicant shall
1 29 prove that the person making the sale has included the amount
1 30 thereof in the computation of the sales price of such person
1 31 and that such person has paid the tax levied by this
1 32 subchapter or subchapter III, based upon such computation of
1 33 the sales price.
1 34 (4) The applicant shall provide the tax credit
1 35 certificates issued pursuant to chapter 476E to the department
2 1 with the forms required by this paragraph "a".
2 2 b. If satisfied that the foregoing conditions and
2 3 requirements have been complied with, the director shall
2 4 refund the amount claimed by the applicant for an amount not
2 5 greater than the amount of tax credits issued in tax credit
2 6 certificates pursuant to chapter 476E.
2 7 c. This subsection is repealed December 31, 2012.
2 8 Sec. 4. NEW SECTION. 437A.17D REIMBURSEMENT FOR BIOMASS
2 9 FUEL.
2 10 A person in possession of a biomass fuel tax credit
2 11 certificate issued pursuant to chapter 476E may apply to the
2 12 director for a reimbursement of the amount of taxes imposed
2 13 and paid by the person pursuant to this chapter in an amount
2 14 not more than the person received in biomass fuel tax credit
2 15 certificates pursuant to chapter 476E. To obtain the

2 16 reimbursement, the person shall attach to the return required
2 17 under section 437A.8 the biomass fuel tax credit certificates
2 18 issued to the person pursuant to chapter 476E and provide any
2 19 other information the director may require. The director
2 20 shall direct a warrant to be issued to the person for an
2 21 amount equal to the tax imposed and paid by the person
2 22 pursuant to this chapter but for not more than the amount of
2 23 the biomass fuel tax credit certificates attached to the
2 24 return.

2 25 This section is repealed December 31, 2012.

2 26 Sec. 5. NEW SECTION. 476E.1 DEFINITIONS.

2 27 As used in this chapter, unless the context otherwise
2 28 requires:

2 29 1. "Biomass fuel" means organic matter including but not
2 30 limited to agricultural food and feed crops, crop wastes and
2 31 residues, wood wastes and residues, or aquatic plants to
2 32 generate electricity.

2 33 2. "Department" means the department of revenue.

2 34 3. "Electric utility" means a public utility furnishing
2 35 electricity as defined in section 476.1, a city utility as
3 1 defined in section 390.1, and an electric cooperative as
3 2 defined in section 390.1.

3 3 Sec. 6. NEW SECTION. 476E.2 BIOMASS FUEL TAX CREDIT ==
3 4 LIMIT.

3 5 1. An electric utility is eligible to receive a biomass
3 6 fuel tax credit equal to fifteen dollars per megawatt hour of
3 7 electricity generated using biomass fuel during the tax year,
3 8 subject to the following limitations:

3 9 a. Only those megawatt hours generated using at least
3 10 seventy-five percent biomass fuel will be eligible for the
3 11 credit under this section.

3 12 b. The credit shall be limited to one hundred thirty
3 13 thousand megawatt hours per applicant per year. The aggregate
3 14 amount of credits for all applicants shall be limited to two
3 15 hundred thousand megawatt hours per year.

3 16 If the electric utility elects to take the biomass fuel tax
3 17 credit, the electric utility shall not deduct for Iowa tax
3 18 purposes any amount of the costs incurred for the purchase of
3 19 biomass fuel which is deductible for federal tax purposes.

3 20 2. Any credit used under chapter 422, division II or III,
3 21 which is in excess of the tax liability shall be refunded with
3 22 interest computed under section 422.25. In lieu of claiming a
3 23 refund, a taxpayer may elect to have the overpayment shown on
3 24 the taxpayer's final, completed return credited to the tax
3 25 liability for the following tax year.

3 26 3. An individual may claim the tax credit under chapter
3 27 422, division II, allowed a partnership, limited liability
3 28 company, S corporation, estate, or trust electing to have the
3 29 income taxed directly to the individual. The amount claimed
3 30 by the individual shall be based upon the pro rata share of
3 31 the individual's earnings of the partnership, limited
3 32 liability company, S corporation, estate, or trust.

3 33 Sec. 7. NEW SECTION. 476E.3 TAX CREDIT CERTIFICATE
3 34 PROCEDURE.

3 35 1. An electric utility may apply to the department for the
4 1 biomass fuel tax credit by submitting to the department all of
4 2 the following:

4 3 a. A completed application in a form prescribed by the
4 4 department.

4 5 b. Any other information the department deems necessary.

4 6 2. The department shall calculate the amount of the tax
4 7 credit for which the applicant is eligible and shall issue the
4 8 tax credit certificate for that amount or notify the applicant
4 9 in writing of its refusal to do so. An applicant whose
4 10 application is denied may file an appeal with the department
4 11 within sixty days from the date of the denial pursuant to the
4 12 provisions of chapter 17A.

4 13 3. Each tax credit certificate shall contain the person's
4 14 name, address, and tax identification number, the amount of
4 15 tax credits, the first taxable year the certificate may be
4 16 used, the type of tax to which the tax credits shall be
4 17 applied, and any other information required by the department.
4 18 The tax credit certificate shall only list one type of tax to
4 19 which the amount of the tax credit may be applied. Once
4 20 issued by the department, the tax credit certificate shall not
4 21 be terminated or rescinded.

4 22 4. Once a tax credit certificate is issued pursuant to
4 23 this section, the tax credit may only be claimed against the
4 24 type of tax reflected on the certificate.

4 25 Sec. 8. NEW SECTION. 476E.4 RULES.

4 26 The department may adopt rules pursuant to chapter 17A for

4 27 the administration and enforcement of this chapter.
4 28 Sec. 9. NEW SECTION. 476E.5 APPLICABILITY == REPEAL.
4 29 1. This chapter applies to tax years ending after June 30,
4 30 2007, and beginning before January 1, 2013.
4 31 2. This chapter is repealed December 31, 2012.
4 32 EXPLANATION
4 33 This bill provides electric utilities a biomass fuel tax
4 34 credit under the individual and corporate income, sales and
4 35 use, and replacement taxes. Biomass fuel is defined as
5 1 organic matter including but not limited to agricultural food
5 2 and feed crops, crop wastes and residues, wood wastes and
5 3 residues, or aquatic plants to generate electricity. The bill
5 4 provides that the tax credit is equal to \$15 per megawatt hour
5 5 of electricity generated using biomass fuel during the tax
5 6 year, subject to two limitations. First, only those megawatt
5 7 hours generated using at least 75 percent biomass fuel will be
5 8 eligible for the credit, and second, the credit is limited to
5 9 130,000 megawatt hours per applicant per year. The bill
5 10 provides that the aggregate amount of credits for all
5 11 applicants is limited to 200,000 megawatt hours per year. Any
5 12 excess credit is refundable.
5 13 The bill specifies that the credit applies to tax years
5 14 ending after June 30, 2007, and beginning before January 1,
5 15 2013. The credit is repealed December 31, 2012.
5 16 LSB 2309SS 82
5 17 rn:rj/gg/14